

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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| KEVIN LYNN REVELS, #654284 | § | |
| VS. | § | CIVIL ACTION NO. 6:16cv215 |
| DIRECTOR, TDCJ-CID | § | |

ORDER OF DISMISSAL

Petitioner Kevin Lynn Revels, a prisoner confined in the Texas prison system, is seeking permission to file a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He must obtain permission to file a petition because of sanctions previously imposed by the Fifth Circuit. *In re: Kevin Revels*, No. 98-11423 (5th Cir. 1998).

In the present case, he is seeking to challenge time calculations associated with his sentence. The case was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that permission to file the petition should be denied and the case should be dismissed. Petitioner has filed objections.

Magistrate Judge Love notes that Petitioner acknowledges that he did not file an application for a writ of habeas corpus challenging the time calculations in state court. In his objections, Petitioner argues that he was only required to file a time dispute resolution form. There is a two step process for state inmates to exhaust their state remedies regarding time questions. They must initially file an Offender Time Credit Dispute Resolution Form (“TDR”) with the Classification and Records Office and receive a response. *Ex parte Stokes*, 15 S.W.3d 532 (Tex. Crim. App. 2000).

Petitioner apparently has satisfied the first step. The second step requires inmates to file an application for a writ of habeas corpus in state court and to receive a response on the merits from the Texas Court of Criminal Appeals. *See Walters v. Quarterman*, 258 F. App'x 697, 698 (5th Cir. 2007). Petitioner has not satisfied the second step. He has not exhausted his state remedies; thus, he should not be permitted to proceed with the case in this Court.

The Report and Recommendation of the Magistrate Judge, which contain his proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Petitioner, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #4) is **ADOPTED**. It is further

ORDERED that the motion for leave to file a petition for a writ of habeas corpus (docket entry #1) is **DENIED** and the cause of action is **DISMISSED** without prejudice. It is further

ORDERED that a certificate of appealability is **DENIED**. It is finally

ORDERED that all motions not previously ruled on are **DENIED**.

It is SO ORDERED.

So ORDERED and SIGNED this 31st day of March, 2016.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE